

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS (Eastern Division)**

**DIRECTV, Inc.**

Plaintiff,

vs.

**David Annand**

Defendant

) Case No.: **03cv12325MLW**

)

) **AFFIDAVIT OF PLAINTIFF'S COUNSEL**

) **ATTORNEY JOHN M. McLAUGHLIN IN**

) **SUPPORT OF PLAINTIFF'S SECOND**

) **MOTION FOR DEFAULT JUDGMENT**

)

)

)

)

Now comes the Affiant, and makes this his sworn statement, under the pains and penalties of perjury, of his own personal knowledge.

**GENERAL FACTUAL ASSERTIONS**

1. I, John M. McLaughlin, represent the Plaintiff in the above-entitled action.
2. I am a member of the Law Firm of Green, Miles, Lipton & Fitz-Gibbon LLP.
3. I have used paralegals from the firm to assist me in this case.

**FACTUAL ASSERTIONS AS TO ATTORNEY'S FEES**

4. My usual hourly rate is \$200.00 per hour. The usual hourly rate of the paralegals in our firm is \$90.00 per hour. The usual hourly rate of the support staff in our firm is \$75.00 per hour. These rates are more than reasonable for telecommunication civil litigation specialists.
5. I am a member of the Federal Communications Bar Association and I have been heavily involved in telecommunications litigation since the early 1990's. I have represented DIRECTV, Inc. Comcast Corporate Entities and Coxcom, Inc. on literally hundreds of telecommunications piracy cases.
6. My law firm personnel and I have worked on:

- a. Reviewing the evidence in this case;
- b. Drafting the complaint;
- c. Drafting the civil action cover sheet;
- d. Drafting the corporate disclosure;
- e. Drafting the summons;
- f. Drafting the first request for notice of default with its accompanied affidavit
- g. Drafting the First Motion for default judgment
- h. Drafting the First Memorandum in support of the motion;
- i. Drafting the first proposed judgment; and
- j. Drafting the first affidavit.

Based upon my normal hourly rates the attorney's fees for this civil action to date would be higher than \$850.00. Yet, to simplify matters and in the hopes of avoiding a hearing in damages in a case where the ultimate recovery of the judgment may be problematic the Plaintiff is seeking in essence, a smaller lump sum attorney's fee of \$850.00. This amount was specifically requested in the Amended Complaint.

7. Take note that I am not seeking attorney's fees associated with the Notice of Amended Complaint, the Amended Complaint, the second request for Default, the Second Motion for Default Judgment, the Memorandum in Support of the Second Motion for Default Judgment, and this Affidavit. These items, if requested, would result in a request for attorney's fees well above the \$850.00 requested.

#### **OTHER FACTUAL ASSERTIONS**

8. The Default of the Defendant has been entered for failure to appear in this action.
9. On information and belief, the Defendant is not an infant or an incompetent and the Defendant is not in the military service
10. The undersigned believes the court can assess statutory damages in this matter without testimony. Yet, if the court believes testimony is necessary the Plaintiff will fully cooperate and provide fact witnesses and expert witnesses if required.

8/12/2005

Date

/s/ John M. McLaughlin

John M. McLaughlin

**Green, Miles, Lipton & Fitz-Gibbon LLP**

P.O. Box 210

77 Pleasant Street

Northampton, MA 01061-0210

Telephone: (413) 586-0865

BBO No. 556328